

In re Application of: John J. Park
Serial No. 10/813,199
Filed: March 29, 2004
For: **GOLF TEE HAVING A WIRE SUPPORT FOR A GOLF BALL**

OBJECTIONS TO THE ABSTRACT

The Examiner has objected to the abstract of the disclosure due to the use of legal language, specifically the term, "means". Applicant has amended the abstract to remove such instance of legal language. Consideration of the amendment and withdrawal of the objection are each respectfully requested.

REJECTION UNDER 35 USC 102

Claims 1-4 and 10-14 have been rejected by the Examiner under 35 USC 102(b) as being anticipated by Wei (6,500,077).

Applicant traverses the rejection and respectfully disagrees with the Examiner's characterization of the above, cited reference. The instant invention is directed to a simple, yet efficient device, which is able to support a golf ball, in which the golf ball is supported in a spoon shaped portion of a wire defined by a series of four sets of bends. The four sets of bends also defining a strike portion which deflects the wire away from the golf ball prior to the ball being struck by a golf club. The strike portion coming into contact with the golf club head prior to the golf club head hitting the ball, so as to disengage the ball from the spoon shaped portion prior to the ball being hit with the golf club. It is respectfully asserted that the above-cited reference does not disclose the instant invention as claimed.

Wei is directed to a device, as defined by the examiner as being substantially shown in figures 7-11, which is comprised of a wire that is rotated multiple times around a ball holding seat 4 and is comprised of two sets of bends to lower the elastic arm 3 so that the seat 4 is in line and in the same plane as that of a set of springs 30 and the top of the tee (best shown by leader line of reference numeral 11) so that when the golf ball is placed in seat 4, the club does not strike the elastic arm 3. Wei specifically discloses in col. 3, lines 21-27, that the springs 30 on

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the elastic arm 3, prevent deformation of the arm 3 as a result of impact on the ball held by seat 4. Wei specifically teaches away from the arm being deformed thus Wei cannot anticipate a strike portion. Applicant contends that Wei is completely silent with respect to a wire which clearly defines a strike portion and further a spoon shaped portion, the spoon shaped portion supporting a golf ball as claimed.

In order for a reference to anticipate the invention, the reference must be identically disclosed as claimed. Applicant asserts that the Wei reference does not anticipate applicant's instant invention since Wei specifically teaches a seat portion 4 to support the golf ball and not a series of four sets of bends to support the golf ball prior to striking the ball off the tee where the rigid wire is folded at a point as claimed. Folding requires the wire to have a bend with an acute and definable angle, whereas rotation of the wire around the seat 4 is as stated, a rotation which cannot be construed as a "fold" since there does not exist a clear demarcation of a change in the direction of the wire path or shape.

Applicant contends that multiple rotations of the wire around a "spool" type seat structure 4 do not constitute a fold as specifically claimed or a spoon shaped portion defined by the bends of the wire. Further, Wei does not disclose a strike portion as contended by the examiner with regards to arguments presented for claims 3,4,12 and 13, since as stated above, the arms 3 which support the seat 4 are not to be deformed upon impact. Applicant contends that the seat 4 evidences that the structure is not intended to possess a strike portion and is not inherently capable of performing both functions as contended by the Examiner since the arms 3 are lower than the springs 30 and the top of the seat 4, so that if the ball were struck by the golf club the head of the golf club would have to clear the springs 30 and the seat 4.

In contrast, the instant invention the spoon shaped portion is higher than the top of the tee, thus being able to define a strike portion. If such was the case as contended by the Examiner, the

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arms 3 would have to be higher than the springs 30 and the rim of the seat 4 so that the arms 3 would be in the trajectory of the golf club head prior to the seat and after the springs 30.

Applicant further contends that the lip or rim of the seat 4 is higher than the point where the arms 3 attach to the seat and thus if arms were intended to be struck by the golf club head, the seat 4 would also be struck, thus uprooting the device as a whole and rendering the device inoperable for the purposes intended.

Applicant also contends that there is no structure, shown or implied in Wei that can be construed as a spoon shaped portion to support a golf ball or a strike portion in which the strike portion is deflected away from the golf ball prior to the golf club head striking the ball as claimed. The above features are distinctly patentable over Wei. Applicant requests that the rejection be withdrawn and the claims passed to issue.

Claims 10, 14 and 15, have been rejected under 35 USC 102(b) as being anticipated by Cutts (1,181,507).

Applicant traverses the rejections and respectfully disagrees with the Examiner's characterization of the above-cited reference. The instant invention as described above is directed to a golf tee, not a spring seat for a mower. Cutts as in Wei above does not disclose a rigid support wire as defined by amended claim 10 in that there is not provided by Cutts a wire folded at a point and having a series of bends which define a spoon shaped portion and a strike portion wherein a golf ball is supported by the spoon shaped portion. Cutts shows a wire 3 which is attached to a spring and the spring is subsequently attached to a base 1. The wire supporting a seat 2 is for a rider of the mower to sit upon. Cutts does not provide any structure as found in newly amended claim 10, and thus applicant contends that Cutts does not anticipate the instant

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invention as claimed. There is no structure, shown or implied, in Cutts that can be construed as a spoon shaped portion to support a golf ball or a strike portion in which the strike portion is deflected away from the golf ball prior to the golf club head striking the ball as claimed. The above features are distinctly patentable over Cutts. Applicant requests that the rejection be withdrawn and the claims passed to issue.

REJECTION UNDER 35 USC 102/103

Claim 16, has been rejected under 35 USC 102(b) as being anticipated by or, in the alternative, under 35 USC 103(a) as being obvious over Cutts (1,181,507).

The Examiner contends that Cutts teaches bolts which attach the wire to the support structure and that such bolts are to be construed as an interference fit or in the alternative it would have been obvious to provide a "tight fit" between the wire ends and the bolts to securely attach the spring to the support structure and the wire. As stated above Cutts does not provide for the limitations as found in amended claim 10 in which claim 16 depends therefrom, and thus is deficient in providing a teaching for a rigid wire being folded at a point and having a series of four sets of bends to define a spoon shaped portion and a strike portion as claimed. Applicant requests that the rejection be withdrawn and the claim passed to issue.

REJECTION UNDER 35 USC 103

Claims 5-9 have been rejected under 35 USC 103(a) as being unpatentable over Wei in view of Robbie (5,672,118).

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Robbie does not cure the deficiencies of Wei. The Examiner has relied upon Robbie to teach the use of a self-supporting base. Applicant does not concur with the examiner's modification of Wei in view of Robbie. As stated above, Wei is deficient in teaching a fold in the wire, and a series of four sets of bends which define a spoon shaped portion to support the ball and a strike portion in which the wire is deflected away when the golf club head comes in contact with the strike portion of the guide wire. These features are neither taught in Wei or in Robbie, thus incorporating the teaching of replacing the tee with a support base does not hold the device of the instant invention unpatentable as claimed. Further, applicant disagrees with the Examiner's position that the teachings of Robbie can be combined with those of Wei since if the proposed modification were enabled; the device of both Wei and Robbie would be rendered inoperative for the purposes intended.

It is submitted that a person having ordinary skill in the art would not combine the teachings of a rotating tee device which can only perform at a certain height of the playing surface with a device as taught by Robbie which has an adjustable arm 30 which is intended to solely be raised or lowered so as to teach a user proper swing mechanics, since if the tee of Wei were to be placed on the vertical shaft of Robbie. The Robbie device would not be able to provide for a device having an adjustable height and thus be rendered inoperative for the purposes intended. Applicant contends that the device of Wei cannot be combined without incorporating the arm 30 of Robbie in the proposed combination since such a replacement of structures to hold unpatentable the device of the instant invention is a mere piecing together of components to achieve the device of the instant invention, since the Wei device does not provide for a tee being variable height adjustable.

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Applicant respectfully contends that the modified Wei reference does not disclose the instant invention as claimed and applicant respectfully requests that the rejection be withdrawn and the claims passed to issue.

It is respectfully submitted that the above, cited references does not disclose the instant invention as claimed. Applicant requests that the rejection of the claims under 35 USC 102 and 103 be withdrawn in view of the remarks set forth above.

In view of the amendments and remarks submitted herein, reconsideration of the objections and rejections and allowance of the pending claims are each respectfully requested. A good faith effort has been made to place the present application in condition for allowance and such action is earnestly solicited. If there are any questions prior to allowance, the Examiner is requested to contact the undersigned at the below referenced address.

Dated: March 24, 2005

Respectfully submitted,
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